

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**UNITED STATES OF AMERICA,**

Plaintiff,

v.

**CRIMINAL ACTION NO. 3:06-cr-18  
(BAILEY)**

**JAMES EDWARD BROWN,**

Defendant.

**ORDER ADOPTING AMENDED REPORT AND RECOMMENDATION THAT  
DEFENDANT'S MOTION FOR RECONSIDERATION OF SENTENCE BE DENIED**

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge James E. Seibert. By Order dated January 28, 2008 [Doc. 17], this action was referred to Magistrate Judge Seibert for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Seibert filed his Amended R & R on March 25, 2008 [Doc. 22]. In that filing, the magistrate judge recommended that this Court deny the defendant's motion to for reconsideration of sentence [Doc. 16].

Pursuant to 28 U.S.C. § 636 (b) (1) (c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140,

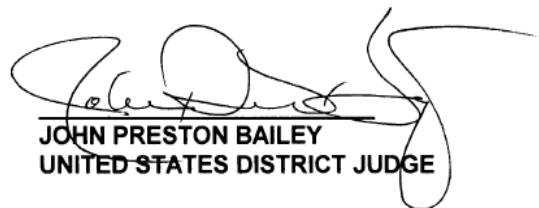
150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Seibert's R & R were due within ten (10) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). Accordingly, this Court will review the report and recommendation for clear error.

Upon careful review of the report and recommendation, it is the opinion of this Court that the **Magistrate Judge's Amended Report and Recommendation [Doc. 22]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Therefore, this Court hereby **DENIES** the defendant's motion for reconsideration of sentence **[Doc. 16]**.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the defendant.

**DATED:** April 29, 2008.

  
JOHN PRESTON BAILEY  
UNITED STATES DISTRICT JUDGE